

CHARLES DAVID BROWN §
v. § CIVIL ACTION NO. 9:09cv114
CAPTAIN ENGLISH, ET AL. §

1

Magistrate Judge recommended that Brown's lawsuit be dismissed without prejudice to Brown's right to seek habeas corpus relief concerning this disciplinary conviction.

Brown filed objections to the Magistrate Judge's Report on October 8, 2009. In his objections, Brown says that he is not a lawyer, but that he wishes to persuade the Court not to bar his claim from *de novo* review. He asks for 190 days, the remaining length of his confinement, to challenge the disciplinary decision through the vehicle of a Section 1983 lawsuit, but does not mention the Magistrate Judge's conclusion that a Section 1983 lawsuit is the wrong vehicle to bring a claim which could potentially result in the restoration of lost good time, with a concomitant effect upon the length of time which Brown must spend in confinement. Finally, Brown says that he could be entitled to at least nominal damages, reiterating that the length of his confinement will not matter in 190 days; however, this does not change the fact that at the present time, a favorable ruling on the lawsuit could result in a shortening of this time period, and so the claim properly sounds in habeas corpus. Brown's objections are without merit.

The Court has conducted a careful *de novo* review of the pleadings in this case, including the original complaint, the Report of the Magistrate Judge, the Plaintiff's objections thereto, and all other pleadings, documents, and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Petitioner's objections are without merit. It is accordingly

ORDERED that the Plaintiff's objections are overruled and that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil rights action be and hereby is DISMISSED without prejudice, with refiling conditioned upon a showing that the disciplinary case which he challenges has been overturned, set aside, expunged, or called into question through the issuance of a federal writ of habeas corpus. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So **ORDERED** and **SIGNED** this **27** day of **October, 2009**.

A handwritten signature in black ink, appearing to read "Ron Clark", is positioned above a horizontal line.

Ron Clark, United States District Judge